

1200-1-11-.04 REQUIRMENTS APPLICABLE TO TRANSFER FACILITIES AND PERMIT REQUIREMENTS AND STANDARDS APPLICABLE TO TRANSPORTERS OF HAZARDOUS WASTE.**(1) General [40 CFR 263 Subpart A]****(a) Scope [40 CFR 263.10]**

1. These regulations establish standards which apply to persons transporting hazardous waste within Tennessee if the transportation requires a manifest under Rule 1200-01-11-.03.
2. Nothing in this Rule shall exempt a transporter from his responsibilities under the rules and regulations of the U.S. Department of Transportation, the U.S. Department of Homeland Security, or the Tennessee Regulatory Commission.
3. These regulations do not apply to on-site transportation of hazardous waste by generators or by owners or operators of permitted hazardous waste management facilities.
4. A transporter of hazardous waste must also comply with Rule 1200-01-11-.03 if he:
 - (i) Transports hazardous waste into the state from a foreign country (except for the notification requirements of Rule 1200-01-11-.03(2)); or
 - (ii) Mixes hazardous wastes of different DOT shipping descriptions by placing them into a single container.
5. (Reserved) [40 CFR 263.10(d)].
6. The regulations in this part do not apply to transportation during an explosives or munitions emergency response, conducted in accordance with Rule 1200-01-11-.05(1)(b)2(vii)(I)IV or (IV) or Rule 1200-01-11-.06(1)(b)2(vii)(I)IV or (IV) and Rule 1200-01-11-.07(1)(b)5(i)(IV) or (iii).
7. Rule 1200-01-11-.09(13)(d) identifies how the requirements of this Rule apply to military munitions classified as solid waste under Rule 1200-01-11-.09(13)(c).

(b) Installation Identification Number and Transporter Permit [40 CFR 263.11]

1. A transporter must not transport hazardous waste which originates or terminates in Tennessee without having received an installation identification number and a transporter permit from the Department. Out-of-State transporters must obtain their installation identification numbers from their respective state agency or EPA, if appropriate.
2. A hazardous waste transfer facility shall not operate without having received an installation identification number from the Department by December 31 following September 6, 2004.

(c) Transfer Facility Requirements [40 CFR 263.12]

1. A hazardous waste transfer facility shall not operate without having received an installation identification number from the Department.

(Rule 1200-1-11-.04, continued)

2. A hazardous waste transfer facility shall maintain a log of all shipments of hazardous waste entering and leaving the facility and other information specified by the Commissioner. Required information shall be specified on forms provided by the Commissioner. The log shall be retained for a period of three (3) years and made available for review by the Commissioner's representative.
3. A hazardous waste transfer facility shall comply with the provisions of Rule 1200-01-11-.05(2)(g), Personnel Training, Rule 1200-01-11-.05(9), Use and Management of Containers, except subparagraphs (e) and (i), and Rule 1200-01-11-.06(2)(e), Security.
4. A transporter who stores manifested shipments of hazardous waste in containers meeting applicable DOT and Tennessee Regulatory Commission regulations for packaging at a transfer facility for a period of ten days or less is not subject to regulation under Rules 1200-01-11-.05, 1200-01-11-.06, 1200-01-11-.07, or 1200-01-11-.10 with respect to the storage of those wastes.

(2) Permitting

- (a) Applicability - Each person who transports in Tennessee a hazardous waste that originates or terminates in Tennessee must have a valid hazardous waste transporter permit obtained from the Department in accordance with subparagraph (b) of this paragraph, and is subject to the requirements of subparagraphs (c) and (d) of this paragraph. This permit is not required if the hazardous waste shipment is passing through the State.

(b) Obtaining a Permit

1. Any person who wishes to transport hazardous waste to or from locations within Tennessee must apply for and receive a hazardous waste transporter permit from the Department before beginning such transport operations. The transporter must submit the permit renewal form to the Department by December 31.
2. Application for or renewal of a permit shall consist of a written notification to the Department on forms provided by the Department. Such forms must be completed according to the instructions accompanying them. Information on the forms shall include, but not be limited to, the name, installation identification number, if previously issued, business address, telephone number of the transporter, and all applicable permit fees required under Rule 1200-01-11-.08(2)(a).
3.
 - (i) The Commissioner shall issue the permit within 15 days following his receipt of a new permit application (not a renewal), unless such application is by a person that (1) had previously held a permit that was terminated by the Commissioner for violation of the requirements of these Rules, or (2) had been operating as a transporter in violation of the permit requirement of this paragraph. Such persons shall not be issued a permit unless and until they demonstrate, to the satisfaction of the Commissioner, their willingness and capability to comply with the Act and these Rules.
 - (ii) The Commissioner shall issue the permit for a renewal by January 31 following his receipt of the permit renewal application, unless such application is by a person that (1) had previously held a permit that was terminated by the Commissioner for violation of the requirements of these

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Rules, or (2) had been operating as a transporter in violation of the permit requirement of this paragraph. Such persons shall not be issued a permit unless and until they demonstrate, to the satisfaction of the Commissioner, their willingness and capability to comply with the Act and these Rules.

4. Transporter permits shall not be transferable.

(c) Permit Duration/Renewal/Termination

1. Unless terminated as set forth in part 3 of this subparagraph, transporter permits shall remain in effect until January 31 of the following calendar year.
2. Unless he has initiated termination proceedings as set forth in part 3 of this subparagraph, the Commissioner shall automatically renew each transporter permit for another year upon his timely receipt of the annual maintenance fee required under Rule 1200-01-11-.08(3)(a).
3.
 - (i) The Commissioner shall terminate a transporter permit within 10 days of receiving a request from the transporter to do so.
 - (ii) The Commissioner, after notifying the transporter and providing him with the opportunity to be heard on the matter, may by order terminate the permit of any transporter upon his violation of one or more of the applicable requirements of this Rule Chapter or Rule Chapter 1200-1-13.

(d) General Requirements

1. The permit shall be issued with an installation identification number as required under subparagraph (1)(b) of this Rule. This number must be included on all manifests and other official documents and on correspondence between the transporter and the Department.
2. Transporters shall maintain a copy of their permit application on file, and shall notify the Department in writing within 30 days of any changes in the information submitted or of cessation of hazardous waste transportation services in this state.
3. A motor vehicle transporter shall have a copy of his permit with him and available for inspection whenever he picks up, transports, or delivers a shipment of hazardous waste in Tennessee; and shall provide the generator/shipper/transfer facility operator with the opportunity to inspect that permit if so requested.

(3) Compliance With the Manifest System and Recordkeeping [40 CFR 263 Subpart B]

(a) The Manifest System [40 CFR 263.20]

1. Manifest Requirements

A transporter may not accept hazardous waste from a generator unless the transporter is also provided with a manifest signed in accordance with the requirements of subparagraph (3)(d) of Rule 1200-01-11-.03.

2. Exports

(Rule 1200-1-11-.04, continued)

In the case of exports other than those subject to Subpart H of 40 CFR 262, a transporter may not accept such waste from a primary exporter or other person if he knows the shipment does not conform to the EPA Acknowledgement of Consent; and unless, in addition to a manifest signed by the generator as provided in this paragraph, the transporter shall also be provided with an EPA Acknowledgement of Consent which, except for shipments by rail, is attached to the manifest (or shipping paper for exports by water (bulk shipment)). For exports of hazardous waste subject to the requirements of Subpart H of 40 CFR 262, a transporter may not accept hazardous waste without a tracking document that includes all information required by 40 CFR 262.84.

3. Compliance Date for Form Revisions

The revised Manifest form and procedures in subparagraph (2)(a) of Rule 1200-01-11-.01, subparagraph (1)(g) of Rule 1200-01-11-.02, and subparagraphs (3)(a) and (3)(b) of Rule 1200-01-11-.04 shall not apply until September 5, 2006.

4. A transporter who delivers a hazardous waste to another transporter or to the designated facility must:

- (i) Obtain the date of delivery and the handwritten signature of that transporter or of the owner or operator of the designated facility on the manifest; and
- (ii) Retain one copy of the manifest in accordance with subparagraph (c) of this paragraph; and
- (iii) Give the remaining copies of the manifest to the accepting transporter or designated facility.

5. The requirements of parts 3, 4, and 6 of this subparagraph do not apply to water (bulk shipment) transporters if:

- (i) The hazardous waste is delivered by water (bulk shipment) to the designated facility; and
- (ii) A shipping paper containing all the information required on the manifest (excluding the Installation Identification Numbers, generator certification, and signatures) and, for exports, an EPA Acknowledgment of Consent accompanies the hazardous waste; and
- (iii) The delivering transporter obtains the date of delivery and handwritten signature of the owner or operator of the designated facility on either the manifest or the shipping paper; and
- (iv) The person delivering the hazardous waste to the initial water (bulk shipment) transporter obtains the date of delivery and signature of the water (bulk shipment) transporter on the manifest and forwards it to the designated facility; and
- (v) A copy of the shipping paper or manifest is retained by each water (bulk shipment) transporter in accordance with subparagraph (c) of this paragraph.

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6. For shipments involving rail transportation, the requirements of parts 3,4, and 5 do not apply and the following requirements do apply:
 - (i) When accepting hazardous waste from a non-rail transporter, the initial rail transporter must:
 - (I) Sign and date the manifest acknowledging acceptance of the hazardous waste;
 - (II) Return a signed copy of the manifest to the non-rail transporter;
 - (III) Forward at least three copies of the manifest to:
 - I. The next non-rail transporter, if any; or
 - II. The designated facility, if the shipment is delivered to that facility by rail; or
 - III. The last rail transporter designated to handle the waste in the United States;
 - (IV) Retain one copy of the manifest and rail shipping paper in accordance with subparagraph (c) of this paragraph.
 - (ii) Rail transporters must ensure that a shipping paper containing all the information required on the manifest (excluding the Installation Identification Numbers, generator certification, and signatures) and, for exports an EPA Acknowledgment of Consent accompanies the hazardous waste at all times.

(Note: Intermediate rail transporters are not required to sign either the manifest or shipping paper.)

- (iii) When delivering hazardous waste to the designated facility, a rail transporter must:
 - (I) Obtain the date of delivery and handwritten signature of the owner or operator of the designated facility on the manifest or the shipping paper (if the manifest has not been received by the facility); and
 - (II) Retain a copy of the manifest or signed shipping paper in accordance with subparagraph (c) of this paragraph.
 - (iv) When delivering hazardous waste to a non-rail transporter a rail transporter must:
 - (I) Obtain the date of delivery and the handwritten signature of the next non-rail transporter on the manifest; and
 - (II) Retain a copy of the manifest in accordance with subparagraph (c) of this paragraph.
 - (v) Before accepting hazardous waste from a rail transporter, a non-rail transporter must sign and date the manifest and provide a copy to the rail transporter.

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7. Transporters who transport hazardous waste out of the United States must:
 - (i) Sign and date the manifest in the International Shipments block to indicate the date that the shipment left the United States; and
 - (ii) Retain one copy in accordance with part (c)4 of this subparagraph; and
 - (iii) Return a signed copy of the manifest to the generator; and
 - (iv) Give a copy of the manifest to a U.S. Customs official at the point of departure from the United States.
 8. A transporter transporting hazardous waste from a generator who generates greater than 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month need not comply with the requirements of this subparagraph or those of subparagraph (c) of this paragraph provided that:
 - (i) The waste is being transported pursuant to a reclamation agreement as provided for in Rule 1200-01-11-.03(3)(a)5;
 - (ii) The transporter records, on a log or shipping paper, the following information for each shipment:
 - (I) The name, address, and U.S. Installation Identification Number of the generator of the waste;
 - (II) The quantity of waste accepted;
 - (III) All DOT-required shipping information;
 - (IV) The date the waste is accepted; and
 - (iii) The transporter carries this record when transporting waste to the reclamation facility; and
 - (iv) The transporter retains these records for a period of at least three years after termination or expiration of the agreement.
- (b) Compliance with the Manifest [40 CFR 263.21]
1. The transporter must deliver the entire quantity of hazardous waste which he has accepted from a generator or a transporter to:
 - (i) The designated facility listed on the manifest; or
 - (ii) The alternate designated facility, if the hazardous waste cannot be delivered to the designated facility because an emergency prevents delivery; or
 - (iii) The next designated transporter; or
 - (iv) The place outside the United States designated by the generator.
 2. (i) If the hazardous waste cannot be delivered in accordance with part 1. of this subparagraph because of an emergency condition other than rejection

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of the waste by the designated facility, then the transporter must contact the generator for further directions and must revise the manifest according to the generator's instructions.

- (ii) If hazardous waste is rejected by the designated facility while the transporter is on the facility's premises, then the transporter must obtain the following:
 - (I) For a partial load rejection or for regulated quantities of container residues, a copy of the original manifest that includes the facility's date and signature and the Manifest Tracking Number of the new manifest that will accompany the shipment, and a description of the partial rejection or container residue in the discrepancy block of the original manifest. The transporter must retain a copy of this manifest in accordance with subparagraph (3)(e) of this Rule, and give the remaining copies of the original manifest to the rejecting designated facility. If the transporter is forwarding the rejected part of the shipment or a regulated container residue to an alternate facility or returning it to the generator, the transporter must obtain a new manifest to accompany the shipment, and the new manifest must include all of the information required in Rule 1200-01-11-.06(5)(c)5(i) through (vi) or 6(i) through (vi) or Rule 1200-01-11-.05(5)(c)5(i) through (vi) or 6(i) through (vi).
 - (II) For a full load rejection that will be taken back by the transporter, a copy of the original manifest that includes the rejecting facility's signature and date attesting to the rejection, the description of the rejection in the discrepancy block of the manifest, and the name, address, phone number, and Identification Number for the alternate facility or generator to whom the shipment must be delivered. The transporter must retain a copy of the manifest in accordance with subparagraph (3)(c) of this Rule, and give a copy of the manifest containing this information to the rejecting designated facility. If the original manifest is not used, then the transporter must obtain a new manifest for the shipment and comply with Rule 1200-01-11-.06(5)(c)5(i) through (vi) or Rule 1200-01-11-.05(5)(c)5(i) through (vi).
- (c) Recordkeeping [40 CFR 263.22]
- 1. A transporter of hazardous waste must keep a copy of the manifest signed by the generator, himself, and the next designated transporter or the owner or operator of the designated facility for a period of three years from the date the hazardous waste was accepted by the initial transporter.
 - 2. For shipments delivered to the designated facility by water (bulk shipment), each water (bulk shipment) transporter must retain a copy of the shipping paper containing all the information required in subpart (a)5(ii) of this paragraph for a period of three years from the date the hazardous waste was accepted by the initial transporter.
 - 3. For shipments of hazardous waste by rail within the United States:
 - (i) The initial rail transporter must keep a copy of the manifest and shipping paper with all the information required in subpart (a)6(ii) of this paragraph

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for a period of three years from the date the hazardous waste was accepted by the initial transporter; and

- (ii) The final rail transporter must keep a copy of the signed manifest (or the shipping paper if signed by the designated facility in lieu of the manifest) for a period of three years from the date the hazardous waste was accepted by the initial transporter.

(Note: Intermediate rail transporters are not required to keep records pursuant to these regulations.)

- 4. A transporter who transports hazardous waste out of the United States must keep a copy of the manifest indicating that the hazardous waste left the United States for a period of three years from the date the hazardous waste was accepted by the initial transporter.
- 5. The periods of retention referred to in this subparagraph are extended automatically during the course of any unresolved enforcement action regarding the regulated activity or as requested by the Administrator/Commissioner.
- 6. Any person who holds or has held a transporter permit in Tennessee pursuant to paragraph (2) of this Rule must furnish upon request, and make available at all reasonable times for inspection, by any officer, employee, or representative of the Department who is duly designated by the Commissioner, all records required under this subparagraph.
- 7. A transfer facility must maintain an operating record or log to demonstrate its compliance with the 10-day storage limit for hazardous waste as set forth in subparagraph (1)(c) of this Rule.

(4) Hazardous Waste Discharges [40 CFR 263 Subpart C]

(a) Immediate Action [40 CFR 263.30]

- 1. In the event of a discharge of hazardous waste during transportation, the transporter must take appropriate immediate action to protect public health and the environment (e.g., notify local authorities, dike the discharge area).
- 2. If a discharge of hazardous waste occurs during transportation and an official (State or local government or a Federal Agency) acting within the scope of his official responsibilities determines that immediate removal of the waste is necessary to protect public health or the environment, that official may authorize the removal of the waste by transporters who do not have installation identification numbers and without the preparation of a manifest.
- 3. A transporter who has discharged hazardous waste in Tennessee must immediately telephone the 24-hour toll-free number of the Tennessee Emergency Management Agency, which is 800-262-3300 for in-state callers or 800-258-3300 for out-of-state callers, and furnish the following information:
 - (i) Name of person reporting the spill;
 - (ii) Name and address of transporter involved;
 - (iii) Name and address of generator;

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- (iv) Telephone number where reporter can be contacted;
- (v) Date, time, and location of incident (indicate pollution of land, water, air, or public water supply, if known);
- (vi) Type of incident (e.g., fire, spillage);
- (vii) Description (including hazard class) and quantity of hazardous waste involved, to the extent available;
- (viii) Type of transport vehicle and mode; and
- (ix) The extent of injuries, if any.

(Note: Under DOT regulations (49 CFR 171.15 and 171.16), the transporter may also be required to give notice to the National Response Center at 800-424-8802 or 202-426-2675 and report in writing to DOT.)

- 4. An air, rail, highway, or water transporter who has discharged hazardous waste must report in writing as required by 49 CFR 171.16 to the Director, Office of Hazardous Materials Regulations, Materials Transportation Bureau, Department of Transportation, Washington, DC 20590.

(Note: A copy of the U.S. Department of Transportation (DOT) form F5800.1 shall suffice for this report provided that it is properly completed and supplemented as necessary to include all information required by this paragraph.)

- 5. A water (bulk shipment) transporter who has discharged hazardous waste must give the same notice as required by 33 CFR 153.203 (as that Federal regulation exists on the effective date of these Rules) for oil and hazardous substances.

(b) Discharge Clean Up [40 CFR 263.31]

- 1. A transporter must clean up any hazardous waste discharge that occurs during transportation or take such action as may be required or approved by Federal, State, or local officials so that the hazardous waste discharge no longer presents a hazard to public health or the environment.

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